IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 187 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 25/01/2005 in WVMP NO.1739/04 & WVMP NO.1818/04 in WPMP 20821/04 in WP NO. 9149 OF 1997 on the file of the High Court.)

Between:

Hyderabad Boats Club, Hyderabad,

rep by its Honorary Secretary
Sri P.V.L.N. Raju, S/o. P.V.L.N. Thimma Raju, aged 44 years,
R/o. Hyderabad.

..... APPELLANT

AND

1 The Government of Andhra Pradesh,

Rep by its Secretary, Roads and Buildings Department,
Secretariat Buildings, Hyderabad.
2 The Hyderabad Urban Development Authority,

rep by its Managing Director, Hyderabad.
3 The Estate Officer, Hyderabad Urban Development Authority,

Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: MR.V.L.N.G.K. MURTHY

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court at the admission stage made the following :

-

-

-

-

-

-

ORAL ORDER: (per the Hon'ble the Chief Justice)

We have heard the learned counsel for the appellant in this appeal arising out of the order passed by the learned single Judge dismissing the WPMP filed by the appellant-writ petitioner and allowing the WVMP filed by the 2nd and 3rd respondents.

In the writ petition, a dispute has been raised about 1443 square yards of land claiming that it is a part of Hyderabad Boat Club's land which was granted to it in the year 1932. To establish its rights, OS NO.1144 of 1986 has been filed in the Court of the 4th Additional Judge, City Civil Court, Hyderabad seeking injunction against the defendants therein not to interfere with the possession of the petitioner-appellant club. The said suit was dismissed and against the said orders, an appeal being CCCA No.69 of 1996 has been filed and the same is pending consideration before this Court. It is also stated that in the appeal, CMP No.11331 of 1996 was filed in which an order of status quo was granted on 2.8.1997. The writ petition was filed thereafter. The petitioner-appellant despite the request by the HUDA did not vacate and hand over the possession of 1443 square yards of land lying on the southern and western side of the club despite the undertaking given by it on 9.1.1995 saying that the club is prepared to hand over the site along with structures which costs more than Rs.7,00,000/- and requested six months time for handing over the site. A request was also made that since the club had developed this land, it be given some alternative site for the purpose for which it was using the land viz., Tennis Court.

The said request for alternative site was declined by HUDA and after the six months time as requested by the petitioner appellant was over, the HUDA again reiterated its request to handover the land. Apprehending dispossession, the writ petition was filed. Initially learned Single Judge granted an interim order on 29.4.1997 and on the vacate application being filed, the learned Single Judge by the order impugned in this appeal dismissed the stay application and vacated the interim order.

Learned counsel for the appellant-petitioner submits that the appellant is in lawful possession of the land on the basis of the usual grant and there is also a plea in the writ petition that the letter dated 9.1.1995 containing the alleged undertaking was not written by it. It is also submitted that the question as to whether the land in question in an extent of 1443 square yards forms part of grant or not is still the subject matter of the appeal and it has to be decided. But till the proceedings are concluded, the appellant cannot be dispossessed otherwise than in usual course of law.

Learned counsel appearing for the respondents have opposed the appeal contending that the land in question does not form part of the suit schedule property, that it is outside the suit schedule property and the club has no right or interest over the land in question.

We have heard the learned counsel for the parties and gone through the record. The plaint schedule in O.S.No.1144 of 1986 does not mention the area. The HUDA in its affidavit has stated that the order passed in C.M.P.No.11331 of 1996 in C.C.CA.No.69 of 1996 is only with regard to an extent of 0.98 cents which is shown in red in the plan annexed to the counter affidavit and the extent of 1443 sq.yards of land which is now sought by HUDA for extension of Lumbini Park is shown in green in the same land. The area shown in green measuring 1443 sq. yards is not part and parcel of the suit schedule property and this plea was no where taken by the club. In reply to HUDA's letter dated 9-1-1995 an undertaking was given by the club to vacate the property subject to certain conditions and subject to allotment of alternative site. That being so, we do not find any ground to interfere with the reasoned order passed by the learned single Judge dismissing the stay petition.

Writ appeal is accordingly dismissed.

DEVINDER GUPTA, CJ

Dated 09.02.2005

_____

B.SESHASAYANA REDDY,J

msv

To

1 The Secretary, Government of Andhra Pradesh,

Roads and Buildings Department,
Secretariat Buildings, Hyderabad.

2 The Managing Director, Hyderabad Urban Development Authority,

Hyderabad.

3 The Estate Officer, Hyderabad Urban Development Authority,

Hyderabad.

4 Two CCs to the Advocate General, High Court of A.P.,

Hyderbad(O.U.T).

5 2 CD copies